

which have proved impracticable. They were in favour of compulsory pilotage on foreign bound ships; but recommended, as regards all coasters and short voyage steam vessels, that any captain who could prove himself competent to pilot his own ships in any particular port should be relieved from the obligation to employ pilot in that port. In 1848, an Act, 12 and 13 Vict. c. 88, was passed, enabling pilotage authorities at their own discretion to examine masters and mates, and if they should be found competent, to give them certificates authorizing them to pilot their own ships. This Act, being permissive only, was acted on by the Trinity House and some other bodies, but to no great extent, and the complaints against compulsory pilotage still continued. In 1853, Mr. Cardwell carried through an Act, 16 and 17 Vict. c. 129, by which the Board of Trade was enabled, in case of refusal by any pilotage authority to examine masters or mates for pilotage certificates, to examine them itself, and to grant certificates exempting them from compulsory pilotage. These enactments were re-enacted in 1854, in clauses 340 to 344 of the Consolidated Merchant Shipping Act, and still remain law. They are limited, however, in their operation by provisions that they shall only apply to ships owned by the same owner, and that the names of the ships shall appear on the certificate; and every master or mate has to pay to the pilotage fund of the ports for which he is licensed the same fees upon the grant or renewal of his license which a regular pilot has to pay. Under these clauses a good many masters and mates have been examined. In most cases the pilotage authorities, acting with the knowledge of the power possessed by the Board of Trade, have themselves conducted the examination, though sometimes, as at Liverpool, not without a struggle.* In a few cases the Board of Trade have had to examine.†

The effect of these clauses has, however, been restricted by the conditions above referred to, and still more by the operation of the law of liability referred to below.

A further alteration having an opposite tendency, though not adopted with any retrograde intention, was made in the same year, 1854. In 1851 a compulsory examination of masters and mates in the foreign going trade was first introduced. In 1853-4 the question arose, whether to extend this examination to the home (or short foreign and coasting) trade. It was determined to do so with respect to passenger vessels only. The question then arose, to what the examination should extend? Seamanship was, of course, to be required, but as regards navigation, the thing needed was rather local than general knowledge. To meet this Mr. Cardwell determined, unfortunately, as experience now shows, to make all home trade passenger ships subject to compulsory pilotage in all ports where there are licensed pilots, unless the master or mate should obtain certificates enabling them to pilot their own vessels, either under the clauses above referred to, or under a special provision inserted for the purpose of enabling the Board of Trade more easily to grant certificates when the local authorities should make difficulties. (See clauses 354 to 355 of the Merchant Shipping Act.) A new species of compulsory pilotage was thus introduced, with a new form of exemption. It was by no means Mr. Cardwell's intention that pilots should be employed in these cases, but simply that officers should be compelled to qualify themselves.

The Act of 1854 further provided, with respect to compulsory pilotage, that pilotage should continue compulsory where it was then compulsory (section 353); and that all existing exemptions should continue in force (section 353); and that every pilotage authority should have power, with the consent of Her Majesty in Council, to exempt any ships, or classes of ships, from compulsory pilotage (section 332). These clauses, coupled with those relating to the Trinity House pilotage, are full of apparent inconsistencies, and have led to much doubt and litigation. The tendency of the courts has been on the whole to favor the exemptions.‡ And some bye-laws have been passed removing some of the inconsistencies by extending the exemptions.||

Compulsory pilotage is enforced by virtue of section 353. If a ship which is not exempted fails to employ a pilot who offers, the master is liable to a penalty of double the pilotage, which is recoverable, not by civil process, but under the rules of law applicable to criminal proceedings. This has been the cause of great complaints and gross hardship. A pilot alleges that a ship has refused his services at Gravesend. The ship is gone (say) to Shields. He gets a warrant from the magistrate there and sends it down to Shields with a policeman to arrest the captain. The poor captain, to avoid being hauled up to Gravesend as a prisoner, is forced to pay whatever is asked.§ Loud complaints were still made on the subject, as may be seen from the Report of Mr. Lindsay's Committee on Merchant Shipping in 1860. That portion of this report which relates to pilotage is well worth reading, pp. xx. to xxii. It concludes as follows:

"As regards the main question of voluntary or compulsory pilotage, your committee, after weighing most attentively all the arguments upon the subject, have arrived at the conclusion that a system of voluntary pilotage might be safely established in most parts of the Empire, due consideration being had to the interests of those parties who have invested capital on the faith that the compulsory system would be maintained. Your committee have had the most convincing evidence that where the system of voluntary pilotage prevails, the supply of pilots is more abundant, their efficiency is in no way inferior, and the rates generally lower than at any of the ports where compulsory pilotage is still in force. The arguments, therefore, which have been used in favor of the existing system, and the fears which have been expressed in regard to obtaining at all times and under all circumstances a sufficient supply of pilots must give way to the facts which have been adduced in evidence. For instance, it appears that at Cork, where pilotage is voluntary, there are no less than 103 licensed pilots, whereas at Falmouth where quite as many vessels call for orders and where pilotage is compulsory there are only 36 pilots, who appear to be less vigilant and who demand much higher rates for their services, although 'it is an open place, free from any danger.'

* Parliamentary Paper, 455, 1862, No. 102, 103, 104; Parliamentary Paper, 532, 1854, Nos. 50 to 59; in these papers the question of Compulsory Pilotage is discussed at some length between the pilotage authority at Liverpool and the Board of Trade.

† At Arundel, Waterford, and Boston. See Parliamentary Paper, 455, 1862, Nos. 138 to 166.

‡ See *R. v. Stanton*, quoted in Dr. Lushington's judgment in *Earl of Auckland*, Parl. Rep., 455, 1862, No. 92.

§ See Parl. Paper, No. 455, 1862, Nos. 1 to 17.

|| See Parl. Paper, No. 455, 1862, secs. 27 to 41, pp. 39 to 46, case of the "*Chase*." See same paper, secs. 78 to 84, case of "*Martha Alida*."